

REMARKS

In view of the foregoing amendments and the following representations, reconsideration and allowance of the above-identified application is respectfully requested.

Claims 1-4, 15-26 and 23-26 are pending in the present application.

Applicants wish to thank the Examiner for his helpful comments and suggestions during a July 23, 2008 telephone interview.

On page 3 of the Office Action, the Examiner rejected claims 1-4, 15, 17-20 and 23-26 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention. The Examiner alleges that claim 1 is indefinite and vague because the thiazolidinedione claim element can be read as including pioglitazone **and** other compounds or pioglitazone **or** other compounds.

After consultation with the Examiner, Applicants have amended independent claim 1 to specifically recite that "the thiazolidinedione derivative **can be either** pioglitazone **or** a pharmaceutically acceptable salt thereof". Support for the amendment can found on page 6, lines 13-16 of the application.

It is respectfully submitted that the pending claims are clear and unambiguous. The amended claims clearly define "thiazolidinedione derivative" as pioglitazone or a pharmaceutically acceptable salt thereof. The amended claims also clearly define "thiazolidinedione related compounds or impurities" as the four compounds recited in

items (i) to (iv) of claim 1.

Applicants have also amended claim 1 to correct the spelling of "humidity". This typographical error was discovered during preparation of this response. No new matter is added by this amendment.

During the telephone interview, the Examiner also agreed to reconsider the rejection of claims 1-4, 15, 17-20 and 23-26 based upon provisional non-statutory obviousness-type double patenting in view of claims 1-7, 9-11, 16-23, 25, 26, 33, 37, and 38 of co-pending United States Patent Application No. 11/094,493. It was discussed with the Examiner that Applicants do not possess 100% interest in the 11/094,493 patent application due to a joint development agreement. Applicants requested the Examiner's guidance in ways to address the provisional double patenting rejection. The Examiner indicated he would reconsider the applicability of MPEP § 804(I)(B)(1) to the present application in light of the above amendments.

Based upon the present amendments, it is believed the provisional double patenting rejection is the only rejection remaining in the present application. The present application was filed before United States Patent Application 11/094,493. In light of these facts, Applicants respectfully request the Examiner reconsider and withdraw the provisional double patenting rejection of the present application in accordance with the provisions of MPEP § 804(I)(B)(1). MPEP § 804(I)(B)(1) reads in relevant part as follows:

If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier filed application to

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Examiner: Weddington, Kevin E.

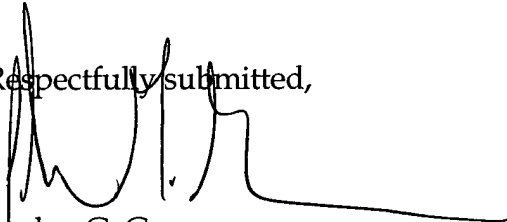
issue as a patent without a terminal disclaimer.

Based upon the foregoing amendments and representations, Applicants respectfully submit that the rejection of the claims in the above-identified application have been overcome and should be withdrawn. Early and favorable action is earnestly solicited.

It is believed that no fee is required for submission of this response because it is being mailed before the three month deadline, September 24, 2008.

If a fee is due, the Commissioner is authorized to charge our deposit account, Account No. 08-1540. A duplicate copy of this sheet is enclosed.

Respectfully submitted,



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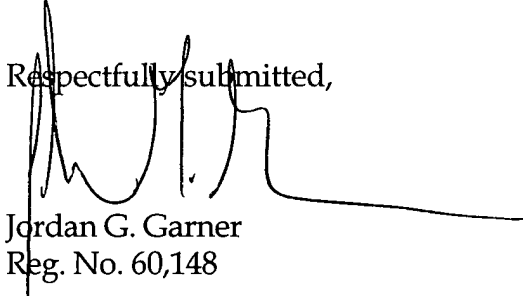
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